

Message Text

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16

ACTION EA-14

INFO OCT-01 ISO-00 IO-14 SSO-00 NSCE-00 INRE-00 USIE-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

PA-04 RSC-01 PRS-01 SPC-03 SS-20 DRC-01 COA-02 CG-00

DLOS-06 FMC-04 /104 W

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O R 200955Z DEC 73

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC IMMEDIATE 1694

INFO CINCPAC

C O N F I D E N T I A L SEOUL 8574

E.O. 11652: GDS

TAGS: MARR PBOR KS KN

SUBJECT: ROK LEGAL POSITION ON NORTHWEST COASTAL
INCIDENTS

1. POLITICAL COUNSELOR WAS CALLED TO MOFA BY
AMERICAN BUREAU DIRECTOR KIM DOMG WHIE TODAY.
KIM MADE LENGTHY PRESENTATION MOFA VIEWS ON "LEGAL
SUSPECTS" OF NORTH KOREAN INTRUSIONS BEYOND
NORTHERN LIMIT LINE (NLL) AND NORTH KOREAN
VIOLATIONS OF CONTIGUOUS WATERS TO UNC CONTROLLED
ISLANDS.

2. KIM STRESSED THAT IT MOFA VIEW THAT BOTH
VIOLATIONS OF CONTIGUOUS WATERS AND NORTH KOREAN
INTRUSIONS BELOW NLL ARE VIOLATIONS OF THE
"ARMISTICE REGIME". KIM INDICATED
FACT NORTH KOREANSHAVE ACCEPTED NLL FOR 20
YEARS AS PART OF ARMISTICE ARRANGEMENTS GIVES THE
LINE LEGAL STANDING. HE SAID THAT HIS USE OF
"ARMISTICE REGIME" WAS DELIBERATE AND MEANT NOT
ONLY ARMISTICE AGREEMENT ITSELF BUT PATTERN OF
PRACTICES AND PRECEDENTS WHICH HAVE BUILT UP AROUND
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NLL EVENTHOUGH IT NOT SPECIFICALLY MENTIONED. KIM

SAID THAT IN ROKG VIEW "FIRMNESS" IS NECESSARY IN DEALING WITH NORTH. THIS IS PARTICULARLY TRUE IN PRESENT SITUATION SINCE THERE IS EVIDENCE THAT NORTH KOREANS ARE USING CONTROVERSY OVER NLL AND UNC ISLANDS AS COVER UP FOR THEIR OWN INTERNAL DIFFICULTIES. KIM STRESSED ROKG REALIZED THAT POLICY OF FIRMNESS DOES NOT MEAN THAT IT WOULD PROVOKE INCIDENT OR INDULGE IN ANY AGGRESSIVE ACTIONS OF ITS OWN. HOWEVER, ROKG DOES BELIEVE THAT IT IS NECESSARY TO ASSIGN POSITION THAT NLL MUST BE MAINTAINED AND ACCEPTED BY NORTH KOREANS AS LIMIT LINE CONFIRMED BY PRACTICE OF PAST 20 YEARS.

3. POL COUNSELOR POINTED OUT THAT, WE HAVE PROTESTED, AS ARMISTICE AGREEMENT VIOLATIONS, INTRUSIONS WITHIN THREE MILE CONTOUS WATERS OF UNC CONTROLLED ISLANDS. HOWEVER UNC HAS NOT

PROTESTED NLL INTRUSIONS SINCE LINE IS NOT SPECIFICALLY MENTIONED IN ARMISTICE AGREEMENT.

4. KIM THEN POL COUNSELOR MOFA MEMORANDUM ON ITS "LEGAL POSITION". MEMORANDUM ENTITLED "NORTH KOREAN RECENT PROVOCATIONS AGAINST THE ARMISTICE ON THE KOREAN PENINSULA". KIM SAID HE HAD ALREADY BEEN INSTRUCTED TO CIRCULATE MEMORANDUM TO DIPLOMATIC MISSIONS IN SEOUL AND TO POUCH IT TO ROK MISSIONS ABROAD. KIM SAID THAT ROKG FELT THAT IT WAS IMPORTANT THAT THEY US THIS MEMORANDUM TO COUNTER NORTH KOREAN PROPAGANDA AND TO SHOW THAT NORTH, NOT ROK, TAKING PROVOCATIVE STANCE. POL COUNSELOR THEN STATED THAT MEMORANDUM RELATED TO ARMISTICE AGREEMENT AND IT WOULD SEEM APPROPRIATE THAT USG AGENCIES HAVE OPPORTUNITY TO REVIEW IT BEFORE

IT APPEARS PUBLICLY. KIM AGREED BUT SAID HE WAS UNDER SPECIFIC INSTRUCTION TO GET MEMORANDUM OUT AS SOON AS POSSIBLE. SAID IT WOULD BE CONFIDENTIAL

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POSSIBLE TO HOLD UP DISTRIBUTION OF DOCUMENT FOR ONE OR TWO DAYS AT THE MOST.

5. POL COUNSELOR PROMISED TO TRANSMIT ROK MEMORANDUM TELEGRAPHICALLY AND TO REQUEST ANY PRELIMINARY USG VIEWS BY NO LATER THAN OPENING OF BUSINESS DECEMBER 22. TEXT OF MEMORANDUM BEING TRANSMITTED SEPARATELY.

6. COMMENT: KIM MADE CLEAR THAT MOFA IS DETERMINED TO ISSUE DOCUMENT PASSED US. WHILE DOCUMENT GENERALLY CONTENTIOUS WE SEE LITTLE LIKELIHOOD THAT WE CAN TALK MOFA OUT OF CIRCULATING IT IN SOME FASHION WITHOUT STRENUOUS EFFORT. HOWEVER, WE SEE MAJOR PROBLEMS WITH PARA 2 (C) REGARDING NLL WHICH IN EFFECT STATES UNC ESTABLISHED THE LINE IN ACCORDANCE "WITH THE PROVISIONS AND THE SPIRIT OF THE ARMISTICE AGREEMENT". A LATER PASSAGE (PARA 3 C) ALSO DESCRIBES NLL PENETRATIONS AS "MILITARY PROVOCATIONS" TO DISRUPT THE CURRENT "ARMISTICE REGIME". PARA 3 A ALSO LOOSELY REFERS TO UNC CONTROL OF THE "SEA AREA" (AS OPPOSED TO CONTIGUOUS WATERS).

7. IF WE ARE TO HAVE ANY IMPACT ON ROK USE OF MEMORANDUM WE WILL NEED WASHINGTON VIEWS AS SOON AS POSSIBLE AND IN CLEARER TERMS BOTH WITH REGARD TO STATUS OF NLL AND THE DESIRABILITY OF ISSUING MEMORANDUM. IF VIGOROUS REPRESENTATION MADE WE SHOULD AT MINIMUM BE ABLE TO TONE DOWN PARTS RELATING TO NLL.
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Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
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